

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

MICHAEL A. THOMAS,

Plaintiff,

V.

GEORGE A. LOMBARDI, et al.,

Defendants.

No. 4:13CV622 AGF

MEMORANDUM AND ORDER

This matter is before the Court on plaintiff's motion to appoint counsel.

Plaintiff, an inmate at Southeastern Correctional Center asserts in his complaint that he has been kept in solitary confinement for approximately one year in violation of his due process rights. Plaintiff also asserts that he has been subjected to cruel and unusual punishment by defendants' actions in keeping him in solitary confinement for more than a year. Plaintiff seeks counsel to represent his interests in this civil rights action brought pursuant to 42 U.S.C. § 1983.

In determining whether to appoint counsel, the Court considers several factors, including (1) whether the plaintiff has presented non-frivolous allegations supporting his or her prayer for relief; (2) whether the plaintiff will substantially benefit from the appointment of counsel; (3) whether there is a need to further investigate and present the facts related to the plaintiff's allegations; and (4) whether

the factual and legal issues presented by the action are complex. See Johnson v. Williams, 788 F.2d 1319, 1322-23 (8th Cir. 1986); Nelson, 728 F.2d at 1005.

The Court has reviewed the pleadings in this matter, as well as plaintiff's pending motion for injunctive relief and defendants' response brief, and is of the opinion that appointment of counsel would best serve the interest of justice.

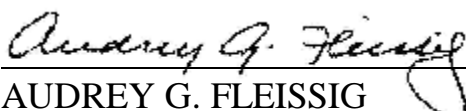
Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for appointment of counsel [Doc. #9] is **GRANTED**. Frank "Trae" C. Bertrand III, of the law firm of BRADSHAW, STEELE, COCHRANE & BERENS, L.C., 3113 Independence Street, P.O. Box 1300, Cape Girardeau, MO, 63702-1300, is appointed to represent plaintiff in this matter. The Clerk of the Court shall provide plaintiff's newly appointed counsel with a complete copy of the court file at no cost.

IT IS FURTHER ORDERED that plaintiff's counsel shall have sixty (60) days to file an amended complaint in this matter. Plaintiff's counsel is advised that the amended complaint will replace the original complaint and will be the only complaint this Court reviews. The Court will not consider any claims or allegations that are not included in the amended complaint even if they were asserted in the earlier complaint.

IT IS FURTHER ORDERED that plaintiff's counsel shall have sixty (60) days to file an amended motion for preliminary injunction or any motions for injunctive relief that counsel deems necessary. If counsel is satisfied with the original motion for injunctive relief, he may simply file a reply to defendants' response in opposition to plaintiff's motion for preliminary injunction [Doc. #14] within the sixty (60) day time period.

Dated this 15th day of July, 2013.



AUDREY G. FLEISSIG
UNITED STATES DISTRICT JUDGE